Supreme Court, U.S.
FILED
OCT 20 1992
OFFICE OF THE CLERK

92-952

No.

In The
Supreme Court of the United States
October Term 1992

ROBERT A. PFLUGER,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

Robert A. Pfluger
1806 S. Alpine Rd.
Rockford, Illinois 61108
(815) 399-6411

Questions Presented For Review

1. Can the Court deny Petitioner his right to appeal for any reason?

2. Can the Court deny Petitioner his right to appeal for his refusal to pay a fine levied in a previous appeal (90-3266) which has not been fully adjudicated?

TABLE OF CONTENTS

Page

Questions Presented For Review..... i.

Jurisdictional Statement..... ii.

Statement of The Case..... iii.

Table of Authorities..... iv.

Argument and Conclusion..... 1.

Appendix and Orders..... 5.

Jurisdictional Statement

Petitioner appeals pursuant to 28 U.S.C. Section 1254 and U.S. Supreme Court Rule 13, by timely notice of appeals and Supreme Court Justice Steven's order, (A-226) dated September 18, 1992, filed on September 30, 1992. Copies of said notices included in Petitioner's Appendix herein at page 1.

Petitioner appeals judgements entered by the United States Court of Appeals for the Seventh Circuit dated March 13, 1992 May 4, 1992 and all decisions relative thereto. A copy of said decisions is included in Petitioner's Appendix at page 2.

Statement of the Case

On or about October 26, 1991, Petitioner Robert A. Pfluger filed a timely petition to contest alleged income tax deficiencies related to a Notice of Deficiency issued by the Internal Revenue Service on July 31, 1991, for the tax years 1986, 1987 and 1988. The Tax Court, Judge Stanley J. Goldberg presiding, entered a decision on or about February 25, 1991 and adopted by United States Tax Court, Judge Howard A. Dawson, Jr. on or about June 3, 1991, which determined deficiencies in taxes owed in the total amount of $17,582 with additions to tax totaling $8,634 and sanctioned Petitioner with penalties in the amount of $10,000 pursuant to I.R.C. section 6673. On July 12, 1991 Petitioner filed a timely notice of appeal of the decision pursuant to Section 7482 of the Internal Revenue Code.

On or about May 4, 1992, the Seventh Circuit U.S. Court of Appeals, Judges Posner, Coffey and Ripple presiding, dismissed Petitioner's appeal for failure to pay the sanctions assessed in Appeal No. 90-3266 and subsequently on May 23, 1992 denied a motion to reconsider.

Subsequently Appellant's Attorney wrote him a letter, stating he could not continue to represent him in this case and Petitioner as Pro-Se filed for an extension of the time in which to file this Petition and was granted that extension of the time in which to file this Petition and was granted that extension to October 23, 1992 by Associate Justice John Paul Stevens on September 18, 1992.

Table of Authorities

1. Preamble to the U.S. Constitution

2. Title 28, paragraph 1291

ARGUMENT

Petitioner has a right to an appeal. Rights are something that cannot be taken away. The Appellate Court has done just that by dismissing Appellants Appeal.

The Court has tried to use as their reason for dismissal the fact that appellant has not paid a sanction assessed by the Court in a previous case No. 90-3266.

This case, 90-3266 is being appealed to the U.S. Supreme Court in and presently awaits their decision.

Regardless, whether or not petitioner has paid his fine in a previous case, petitioner has a right to be heard in subsequent cases.

In everything we consider to be wrong, whether it be murder, rape, stealing, beatings, unconstitutional laws, violent arguments, or what have you, the common denominator is there is someone trying to control. Somebody saying, "Do it my way." "Do my will." "Do what I say." "My way is the right way." It is the control over a free being that is the essence of evil. Whenever we have control over a free person we have an unconstitutional wrongdoing. Because human beings were made to be free to become responsible.

The Hon. Judges Coffey, Posner, and Ripple have done just that. They seek to control rather than keep this petitioner free.

It is up to this Court to right this wrong and insure the freedom of all by reversing the Appellat Courts decision and reinstate this case.

APPENDIX

Page

Notice of Appeal..... 5.

Orders Appealed From..... 6.

In The

United States Court of Appeals

For The Seventh Circuit

No. 91-2700

ROBERT A. PFLUGER

Petitioner-Appellant,

v.

COMMISSIONER OF
INTERNAL REVENUE, Respondent-Appellee.

NOTICE OF APPEAL

Notice is hereby given that Robert A. Pfluger hereby appeals to the United States Supreme Court from all decisions and orders entered against him by the United States Court of Appeals for the Seventh Circuit and the United States Tax Court, including, but not limited to the following:

The Tax Court Decision of Judges Stanley J. Goldberg and Howard A. Dawson, entered on or about June 3, 1991;

The Seventh Circuit Decision by The Honorable Judges Posner, Coffey and Ripple in 91-2700 dated on or about May 4, 1991 and May 26, 1991.

The appeal is taken pursuant to 28 U.S.C. Section 1254 and any other lawful statutory authority.

Pro-Se
Robert A.Pfluger
1806 South Alpine
Rockford, Illinois 61108
(815) 399-6411

Supreme Court of the United States

No.

A-226

Robert A. Pfluger,
Petitioner

v.

Commissioner of Internal Revenue

ORDER

UPON CONSIDERATION of the application of counsel for the petitioner,

IT IS ORDERED that the time for filing a petition for a writ of certiorari in the above-entitled case, be and the same is hereby, extended to and including October 23, 1992.

/s/ John Paul Stevens
Associate Justice of the Supreme
Court of the United States

Dated this 18
day of September, 1992.

United States Court of Appeals jh

For the Seventh Circuit
Chicago, Illinois 60604

March 13, 1992

Before

Hon. RICHARD A. POSNER, *Circuit Judge*

Hon. JOHN L. COFFEY, *Circuit Judge*

Hon. KENNETH F. RIPPLE, *Circuit Judge*

ROBERT A. PFLUGER, Petitioner-Appellant,	]]	Appeal from the United States Tax Court
No. 91-2700 v.	]	24327-90
COMMISSIONER OF INTERNAL REVENUE, Respondent-Appellee.	]]	

This matter comes before the court for its consideration of the following documents:

1. "MOTION TO DISMISS APPEAL" filed herein on 2/6/92, by counsel for the appellee.

2. "RESPONSE TO APPELLEE'S MOTION TO DISMISS APPELLANT'S APPEAL" filed herein on 2/20/92, by counsel for the appellant.

On consideration thereof,

IT IS ORDERED that said motion is DENIED. However, petitioner-appellant is advised that failure to pay the sanctions assessed in appeal No. 90-3266 within 30 days of the date of this order will result in the dismissal of the instant appeal.

EXHIBIT "A"

United States Court of Appeals MB

For the Seventh Circuit
Chicago, Illinois 60604

May 4, 1992

Before

Hon. RICHARD A. POSNER, *Circuit Judge*

Hon. JOHN L. COFFEY, *Circuit Judge*

Hon. KENNETH F. RIPPLE, *Circuit Judge*

ROBERT A. PFLUGER, Petitioner-Appellant,	]	Appeal from the United States Tax Court
No. 91-2700 v.	]	
	]	24327-90
COMMISSIONER OF INTERNAL REVENUE, Respondent-Appellee.	]	

This matter comes before the court for its consideration of the following documents:

1. "MOTION TO STAY" filed herein on April 2, 1992, by counsel for the appellant.

2. "OPPOSITION TO MOTION TO STAY DISMISSAL OF APPEAL" filed herein on April 15, 1992, by counsel for the appellee.

On consideration thereof,

IT IS ORDERED that the MOTION TO STAY is DENIED. Pursuant to this court's order of March 13, 1992, appeal No. 91-2700 is DISMISSED for failure to pay the sanctions assessed in appeal No. 90-3266. The appellants are reminded that they may request permission to reinstate their appeal, upon payment of the previously assessed sanctions, prior to the issuance of the mandate in this appeal in twenty-one days.

United States Court of Appeals jh

For the Seventh Circuit
Chicago, Illinois 60604
May 26, 1992

By the Court:

ROBERT A. PFLUGER,
Petitioner-Appellant,

No. 91-2700 v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent-Appellee.

Appeal from the United States Tax Court

24327-90

This matter comes before the court for its consideration of the following documents:

1. "MOTION TO RECONSIDER" filed herein on 5/15/92, by counsel for the appellant.

2. "OPPOSITION TO MOTION FOR RECONSIDERATION" filed herein on 5/21/92, by counsel for the appellee.

The appellant requests reconsideration of this court's order of May 4, 1992, dismissing appeal No. 91-2700 for failure to pay sanctions assessed in appeal No. 90-3266. On consideration thereof,

IT IS ORDERED that the "MOTION TO RECONSIDER" filed herein on May 15, 1992, by counsel for the petitioner-appellant is DENIED.

Based on the exhibits attached to the appellant's motion and contrary to the claim in paragraph three, it appears that the appellant has not yet filed a petition for writ of certiorari in appeal No. 90-3266. Further, it is evident that the appellant mischaracterizes the April 23, 1992 correspondence to the clerk of this court as ex parte since counsel for the appellant was properly served with a copy of the letter. The appellant is also incorrect in his assertion that cases in the Seventh Circuit do not receive judicial review.

Misrepresentations of this nature constitute sanctionable conduct. Accordingly, Terrence M. Spears for appellant Robert A. Pfluger is directed to show cause within 14 days of the date of this order as to why sanctions should not be imposed for unprofessional conduct pursuant to Fed. R. App. P. 46(c).

UNITED STATES TAX COURT
Washington, D.C. 20217

ROBERT A. PFLUGER, Petitioner,	)	
v.	)	Docket No. 24327-90
COMMISSIONER OF INTERNAL REVENUE, Respondent.	)	

ORDER and DECISION

Pursuant to the Court's Memorandum Opinion (T.C. Memo. 1991-244) filed June 3, 1991, it is

ORDERED: That respondent's Motion to Dismiss for Failure to State a Claim Upon Which Relief Can be Granted and for Damages under I.R.C. section 6673 filed December 17, 1990, is hereby granted; and it is further

ORDERED AND DECIDED: That there are deficiencies in and additions to petitioners' Federal income taxes as follows:

Taxable		Additions to Tax I.R.C. Sections					
Year	Deficiency	6651(a)	6653(a)(1)(A)	6653(a)(1)(B)	6653(a)(1)	6654	6661
1986	$9,684	$2,421	$484	*	N/A	$468	$2,421
1987	3,631	908	182	*	N/A	197	N/A
1988	4,267	1,067	N/A	N/A	$213	273	N/A

*50 percent of the interest due on the underpayment of tax attributable to negligence or intentional disregard of rules or regulations.

FURTHER ORDERED AND DECIDED: That petitioner is required to pay a penalty to the United States in the amount of $10,000 under section 6673, I.R.C.

Howard A. Dawson, Jr.
Judge

Entered: